



**PLAINTIFF’S REPLY TO MOTION TO LIMIT TRIAL ISSUES, SETTLE AS TO  
LESS THAN ALL DEFENDANTS AND AMEND CAPTION**

copy of the Court Transcript containing the parties' agreement is attached hereto, made a part hereof and labeled **Exhibit A**. Following the parties' agreement, RPC paid \$75,000.00 to the Plaintiff on behalf of both D'Alio and RPC in settlement of the Fraud and Civil RICO claims. At the same time, RPC dismissed its Counterclaim against the NIFL by Stipulation of the parties, which was accepted by the Court on April 7, 2006.

4. Admitted in part. Denied in part. It is admitted the parties agreed to mediation of the contractual damages due by RPC, however, insofar as this paragraph implies that mediation involved RPC's contractual liability, it is denied. As indicated in page 3 of the Court Transcript containing the terms of the parties' agreement, RPC agreed to contractual liability. With the issue of RPC's contractual liability to the NIFL resolved, the parties then agreed to submit the remaining issue of contractual damages to a mediator. Contractual damages include not only an amount for the unpaid medical bills and pending lawsuits and outstanding judgments against the NIFL, but also attorneys' fees and costs pursuant the prevailing party provision contained in RPC's and the NIFL's contract. Between June and September of 2006, the parties participated in several mediation conferences to resolve damages, but the parties could not agree upon the amount of damages due the NIFL.

5. Admitted. By way of additional explanation, the case was closed with the understanding that the parties could petition the Court to Reopen the Case and determine the issue of contractual damages if the parties' could not resolve damages through mediation.

6. Admitted.

7. Admitted.

8. Admitted in part. Denied in part. The NIFL does not oppose that the caption be amended to reflect the March 28, 2006 agreement whereby D'Alio and RPC settled the Civil RICO

claim and the common law Fraud claim by payment of \$75,000.00 to the NIFL. Accordingly, NIFL does not oppose D'Alio being stricken from the caption, as the Court deems proper, to reflect the parties' agreement.

Notwithstanding the removal of D'Alio from the caption, RPC must remain part of the caption because the issue of RPC's contractual damages must be resolved. In this regard, the NIFL disputes the allegations of Paragraph 8 to the extent those allegations imply the NIFL and RPC are to resolve at trial both RPC's liability and damages under the NIFL's Breach of Contract claim. On the contrary, as explained in Paragraph 4 above, RPC already agreed to contractual liability on March 28, 2006. The only issue remaining for trial is the contractual damages due by RPC to the NIFL.

9. Admitted in part. Denied in part. As stated above, the NIFL does not oppose D'Alio's removal from the caption because of the parties' agreement which settled both the Civil RICO and Fraud claims against D'Alio, which were the only two claims filed by the NIFL against D'Alio individually. However, insofar as D'Alio and RPC allege that both RPC's liability and RPC's damages under the Breach of Contract claim remain to be resolved a trial, this allegation is denied because only RPC's contractual damages must be resolved since RPC agreed to contractual liability on March 28, 2006 as indicated in the March 28, 2006 Court Transcript.

WHEREFORE, the NIFL respectfully requests this Court issue an Order specifying the trial between the NIFL and RPC involve only RPC's contractual damages under Breach of Contract claim because of RPC's agreement to contractual liability pursuant to the parties' agreement of March 28, 2006; and D'Alio be stricken from the caption, as the Court deems proper, because of the parties' agreement of March 28, 2006 settling the NIFL's Civil RICO and Fraud counts against D'Alio.

Respectfully submitted,

s/ Timothy C. Leventry

Timothy C. Leventry, LL.M

Attorney for the National Indoor Football League

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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| <b>NATIONAL INDOOR FOOTBALL<br/>LEAGUE L.L.C.,</b> | : | <b>CIVIL DIVISION</b>                         |
| <b>Plaintiff</b>                                   | : | <b>NO. CA 2 - 548</b>                         |
| <b>v.</b>  | : | <b>TYPE OF PLEADING:</b>                      |
| <b>R.P.C. EMPLOYER SERVICES, INC.,</b>             | : | <b>Reply to Motion to Limit Trial Issues,</b> |
| <b>and DAN J. D'ALIO,</b>                          | : | <b>Settle as to Less than All Defendants</b>  |
| <b>Defendants.</b>                                 | : | <b>and Amend Caption</b>                      |

**CERTIFICATE OF SERVICE**

I, Timothy C. Leventry, do hereby certify that a true and correct copy of the foregoing Reply to above-captioned Motion was served on the parties listed below by **regular mail, email and/or fax:**

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**LEVENTRY, HASCHAK,  
& RODKEY, LLC**

Dated: 10-24-06

By: s/ Timothy C. Leventry  
Timothy C. Leventry, Esquire